

(B) if the Administrator intends to continue with the program, promptly initiate an analysis of the program, which shall include, at a minimum—

(i) the projected cost and schedule for completing the program if current requirements of the program are not modified;

(ii) the projected cost and the schedule for completing the program after instituting the actions described under subparagraph (A)(ii); and

(iii) a description of, and the projected cost and schedule for, a broad range of alternatives to the program.

(2) **COMPLETION OF ANALYSIS AND TRANSMITTAL TO COMMITTEES.**—The Administration shall complete an analysis initiated under paragraph (1)(B) not later than 6 months after the Administrator makes a determination under this subsection. The Administrator shall transmit the analysis to the Committee on Science and Technology of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after its completion.

(f) **THIRTY PERCENT THRESHOLD.**—If the Administrator determines under subsection (e) that the development cost of a program will exceed the estimate provided in the Baseline Report of the program by more than 30 percent, then, beginning 18 months after the date the Administrator transmits a report under subsection (e)(1)(A), the Administrator shall not expend any additional funds on the program, other than termination costs, unless Congress has subsequently authorized continuation of the program by law. An appropriation for the specific program enacted subsequent to a report being transmitted shall be considered an authorization for purposes of this subsection. If the program is continued, the Administrator shall submit a new Baseline Report for the program no later than 90 days after the date of enactment of the Act under which Congress has authorized continuation of the program.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3360.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 30104 | 42 U.S.C. 16613. | Pub. L. 109–155, title I, § 103, Dec. 30, 2005, 119 Stat. 2907. |

In subsections (b)(2), (c)(1), (d)(3), and (e)(1)(A), (2), the words “Committee on Science and Technology” are substituted for “Committee on Science” on authority of Rule X(1)(o) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

CHAPTER 303—CONTRACTING AND PROCUREMENT

Sec.
30301. Guaranteed customer base.

Sec.
30302. Quality assurance personnel.
30303. Tracking and data relay satellite services.
30304. Award of contracts to small businesses and disadvantaged individuals.
30305. Outreach program.
30306. Small business contracting.
30307. Requirement for independent cost analysis.
30308. Cost effectiveness calculations.
30309. Use of abandoned and underutilized buildings, grounds, and facilities.
30310. Exception to alternative fuel procurement requirement.

§ 30301. Guaranteed customer base

No amount appropriated to the Administration may be used to fund grants, contracts, or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 30301 | 42 U.S.C. 2459d. | Pub. L. 102–139, title III, (1st par. under heading “Administrative Provisions”, at 105 Stat. 771), Oct. 28, 1991, 105 Stat. 771. |

The words “in this or any other Act with respect to any fiscal year” are omitted as unnecessary.

§ 30302. Quality assurance personnel

(a) **EXCLUSION OF ADMINISTRATION PERSONNEL.**—A person providing articles to the Administration under a contract entered into after December 9, 1991, may not exclude Administration quality assurance personnel from work sites except as provided in a contract provision that has been submitted to Congress as provided in subsection (b).

(b) **CONTRACT PROVISIONS.**—The Administration shall not enter into any contract which permits the exclusion of Administration quality assurance personnel from work sites unless the Administrator has submitted a copy of the provision permitting such exclusion to Congress at least 60 days before entering into the contract.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--|
| 30302 | 42 U.S.C. 2459e. | Pub. L. 102–195, § 19, Dec. 9, 1991, 105 Stat. 1615. |

In subsection (a), the date “December 9, 1991” is substituted for “the date of enactment of this Act” to reflect the date of enactment of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 (Public Law 102–195, 105 Stat. 1605).

In subsection (a), the words “that has been submitted to Congress as provided” are substituted for “described” for clarity.

§ 30303. Tracking and data relay satellite services

(a) **CONTRACTS.**—The Administration is authorized, when so provided in an appropriation Act, to enter into and to maintain a contract for tracking and data relay satellite services. Such services shall be furnished to the Administration in accordance with applicable authorization and appropriations Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

(b) **REPORTS TO CONGRESS.**—The Administrator shall in January of each year report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the Administration to enter into and to maintain the contract authorized hereunder shall remain in effect unless repealed by legislation enacted by Congress.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3363.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|-----------------------------|---|
| 30303(a) | 42 U.S.C. 2463 (1st par.). | Pub. L. 95–76, § 6, July 30, 1977, 91 Stat. 315; Pub. L. 103–437, § 15(c)(3), Nov. 2, 1994, 108 Stat. 4592. |
| 30303(b) | 42 U.S.C. 2463 (last par.). | |

In subsection (b), the words “Committee on Science and Technology” are substituted for “Committee on Science, Space, and Technology” on authority of section 1(a)(10) of Public Law 104–14 (2 U.S.C. note prec. 21), Rule X(1)(n) of the Rules of the House of Representatives, adopted by House Resolution No. 5 (106th Congress, January 6, 1999), and Rule X(1)(o) of the Rules of the House of Representatives, adopted by House Resolution No. 6 (110th Congress, January 5, 2007).

In subsection (b), the word “hereafter” is omitted as unnecessary.

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§ 30304. Award of contracts to small businesses and disadvantaged individuals

The Administrator shall annually establish a goal of at least 8 percent of the total value of prime and subcontracts awarded in support of authorized programs, including the space sta-

tion by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of paragraphs (5) and (6) of section 8(a) of the Small Business Act (15 U.S.C. 637(a))), including Historically Black Colleges and Universities that are part B institutions (as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2))), Hispanic-serving institutions (as defined in section 502(a)(5) of that Act (20 U.S.C. 1101a(a)(5))), Tribal Colleges or Universities (as defined in section 316(b)(3) of that Act (20 U.S.C. 1059c(b)(3))), Alaska Native-serving institutions (as defined in section 317(b)(2) of that Act (20 U.S.C. 1059d(b)(2))), Native Hawaiian-serving institutions (as defined in section 317(b)(4) of that Act (20 U.S.C. 1059d(b)(4))), and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3364.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|-----------------------------|--|
| 30304 | 42 U.S.C. 2473b (1st par.). | Pub. L. 101–144, title III, (1st par. under heading “Small and Disadvantaged Business”, at 103 Stat. 863), Nov. 9, 1989, 103 Stat. 863; Pub. L. 109–155, title VI, § 611, Dec. 30, 2005, 119 Stat. 2932. |

The word “Alaska” is substituted for “Alaskan” in the phrase “Alaska Native-serving institutions (as defined in section 317(b)(2) of that Act (20 U.S.C. 1059d(b)(2)))” for consistency with the term defined in section 317(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(2)).

REFERENCES IN TEXT

The General Education Provisions Act, referred to in text, is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§ 1221 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1221 of Title 20 and Tables.

§ 30305. Outreach program

(a) **ESTABLISHMENT.**—The Administration shall competitively select an organization to partner with Administration centers, aerospace contractors, and academic institutions to carry out a program to help promote the competitiveness of small, minority-owned, and women-owned businesses in communities across the United States through enhanced insight into the technologies of the Administration’s space and aeronautics programs. The program shall support the mission of the Administration’s Innovative Partnerships Program with its emphasis on joint partnerships with industry, academia, government agencies, and national laboratories.

(b) **PROGRAM STRUCTURE.**—In carrying out the program described in subsection (a), the organization shall support the mission of the Administration’s Innovative Partnerships Program by undertaking the following activities:

(1) **FACILITATING ENHANCED INSIGHT.**—Facilitating the enhanced insight of the private sec-

tor into the Administration's technologies in order to increase the competitiveness of the private sector in producing viable commercial products.

(2) **CREATING NETWORK.**—Creating a network of academic institutions, aerospace contractors, and Administration centers that will commit to donating appropriate technical assistance to small businesses, giving preference to socially and economically disadvantaged small business concerns, small business concerns owned and controlled by service-disabled veterans, and HUBZone small business concerns. This paragraph shall not apply to any contracting actions entered into or taken by the Administration.

(3) **CREATING NETWORK OF ECONOMIC DEVELOPMENT ORGANIZATIONS.**—Creating a network of economic development organizations to increase the awareness and enhance the effectiveness of the program nationwide.

(c) **REPORT.**—Not later than one year after October 15, 2008, and annually thereafter, the Administrator shall submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efforts and accomplishments of the program established under subsection (a) in support of the Administration's Innovative Partnerships Program. As part of the report, the Administrator shall provide—

(1) data on the number of small businesses receiving assistance, jobs created and retained, and volunteer hours donated by the Administration, contractors, and academic institutions nationwide;

(2) an estimate of the total dollar value of the economic impact made by small businesses that received technical assistance through the program; and

(3) an accounting of the use of funds appropriated for the program.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3364.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 30305 | 42 U.S.C. 17824. | Pub. L. 110–422, title XI, § 1107, Oct. 15, 2008, 122 Stat. 4810. |

In subsection (c), in the matter before paragraph (1), the date “October 15, 2008” is substituted for “the date of enactment of this Act” to reflect the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2008.

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§ 30306. Small business contracting

(a) **PLAN.**—In consultation with the Small Business Administration, the Administrator shall develop a plan to maximize the number and amount of contracts awarded to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15

U.S.C. 632)) and to meet established contracting goals for such concerns.

(b) **PRIORITY.**—The Administrator shall establish as a priority meeting the contracting goals developed in conjunction with the Small Business Administration to maximize the amount of prime contracts, as measured in dollars, awarded in each fiscal year by the Administration to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)).

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3365.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 30306 | 42 U.S.C. 16821. | Pub. L. 109–155, title VII, § 707, Dec. 30, 2005, 119 Stat. 2937. |

§ 30307. Requirement for independent cost analysis

(a) **DEFINITION OF IMPLEMENTATION.**—In this section, the term “implementation” means all activity in the life cycle of a project after preliminary design, independent assessment of the preliminary design, and approval to proceed into implementation, including critical design, development, certification, launch, operations, disposal of assets, and, for technology programs, development, testing, analysis, and communication of the results.

(b) **REQUIREMENT.**—Before any funds may be obligated for implementation of a project that is projected to cost more than \$250,000,000 in total project costs, the Administrator shall conduct and consider an independent life-cycle cost analysis of the project and shall report the results to Congress. In developing cost accounting and reporting standards for carrying out this section, the Administrator shall, to the extent practicable and consistent with other laws, solicit the advice of experts outside of the Administration.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3365.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 30307 | 42 U.S.C. 2459g. | Pub. L. 106–391, title III, § 301, Oct. 30, 2000, 114 Stat. 1591; Pub. L. 109–155, title VII, § 704, Dec. 30, 2005, 119 Stat. 2936. |

In subsection (b), in the first sentence, the words “the Administrator shall conduct” are substituted for “the Administrator for the National Aeronautics and Space Administration shall conduct” to eliminate unnecessary words.

In subsection (b), in the last sentence, the word “experts” is substituted for “expertise” for clarity.

§ 30308. Cost effectiveness calculations

(a) **DEFINITIONS.**—In this section:

(1) **COMMERCIAL PROVIDER.**—The term “commercial provider” means any person providing space transportation services or other space-related activities, the primary control of which is held by persons other than a Federal, State, local, or foreign government.

(2) **STATE.**—The term “State” means each of the several States of the United States, the

District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(b) IN GENERAL.—Except as otherwise required by law, in calculating the cost effectiveness of the cost of the Administration engaging in an activity as compared to a commercial provider, the Administrator shall compare the cost of the Administration engaging in the activity using full cost accounting principles with the price the commercial provider will charge for such activity.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3366.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 30308(a) | (no source) | |
| 30308(b) | 42 U.S.C. 2459h. | Pub. L. 106-391, title III, § 304, Oct. 30, 2000, 114 Stat. 1592. |

In subsection (a), definitions of “commercial provider” and “State” are added to carry forward the appropriate definitions from section 3 of the National Aeronautics and Space Administration Authorization Act of 2000 (Public Law 106-391, 114 Stat. 1579, 1580).

§ 30309. Use of abandoned and underutilized buildings, grounds, and facilities

(a) DEFINITION OF DEPRESSED COMMUNITIES.—In this section, the term “depressed communities” means rural and urban communities that are relatively depressed, in terms of age of housing, extent of poverty, growth of per capita income, extent of unemployment, job lag, or surplus labor.

(b) IN GENERAL.—In any case in which the Administrator considers the purchase, lease, or expansion of a facility to meet requirements of the Administration, the Administrator shall consider whether those requirements could be met by the use of one of the following:

(1) Abandoned or underutilized buildings, grounds, and facilities in depressed communities that can be converted to Administration usage at a reasonable cost, as determined by the Administrator.

(2) Any military installation that is closed or being closed, or any facility at such an installation.

(3) Any other facility or part of a facility that the Administrator determines to be—

(A) owned or leased by the United States for the use of another agency of the Federal Government; and

(B) considered by the head of the agency involved to be—

(i) excess to the needs of that agency; or

(ii) underutilized by that agency.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3366.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 30309 | 42 U.S.C. 2473d. | Pub. L. 106-391, title III, § 325, Oct. 30, 2000, 114 Stat. 1600. |

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation authorization act:

Pub. L. 102-588, title II, § 220, Nov. 4, 1992, 106 Stat. 5118.

§ 30310. Exception to alternative fuel procurement requirement

Section 526(a)¹ of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142(a)) does not prohibit the Administration from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if—

(1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

(2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

(3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3366.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 30310 | 42 U.S.C. 17827. | Pub. L. 110-422, title XI, § 1112, Oct. 15, 2008, 122 Stat. 4811. |

REFERENCES IN TEXT

Section 526(a) of the Energy Independence and Security Act of 2007, referred to in text, probably means section 526 of Pub. L. 110-140, which is classified to section 17142 of Title 42, The Public Health and Welfare, but does not contain subsecs.

CHAPTER 305—MANAGEMENT AND REVIEW

Sec.

- 30501. Lessons learned and best practices.
- 30502. Whistleblower protection.
- 30503. Performance assessments.
- 30504. Assessment of science mission extensions.

ASSESSMENT OF IMPEDIMENTS TO SPACE SCIENCE AND ENGINEERING WORKFORCE DEVELOPMENT FOR MINORITY AND UNDERREPRESENTED GROUPS AT NASA

Pub. L. 111-358, title II, § 203, Jan. 4, 2011, 124 Stat. 3994, provided that:

“(a) ASSESSMENT.—The Administrator [of NASA] shall enter into an arrangement for an independent assessment of any impediments to space science and engineering workforce development for minority and underrepresented groups at NASA [National Aeronautics and Space Administration], including recommendations on—

“(1) measures to address such impediments;

“(2) opportunities for augmenting the impact of space science and engineering workforce development activities and for expanding proven, effective programs; and

“(3) best practices and lessons learned, as identified through the assessment, to help maximize the effectiveness of existing and future programs to increase the participation of minority and underrepresented

¹ See References in Text note below.